THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 1302 OF 2005

Dated 21st September, 2007

Between:

Kanna Ravi Devaraj

….Petitioner

And

The Government of Andhra Pradesh,
represented by its Secretary, Registration
and Stamps, Secretariat, Hyderabad and others.

…Respondents.

ORAL ORDER:

In this writ petition, the petitioner has questioned the notices issued to him under Section 27 of the Indian Stamp Act in respect of documents bearing Nos. 1489 and 1490 of 2003.

The petitioner purchased two vacant sites admeasuring 1200 square yards and 1300 square yards in Markapur Town and got the sale documents registered vide document Nos. 1489/03 and 1490/03. On the ground that the documents were not written on correct stamps with reference to the value of the property, notices dated 2.1.2004 were issued for payment of deficit stamp duty covered by the said registered documents. Pursuant to the said notices, the petitioner paid the deficit stamp duty. However, further notices dated 15.5.2004 were issued in respect of the same documents stating that the petitioner has committed an offence of undervaluation by suppression of facts and he was asked to appear before the R.O., Ongole to putforth his objections and to submit his consent in writing to pay the compounding fees as determined by the Assistant District Registrar, Ongole to get offences compounded under Section 70(2) of Indian Stamp Act.

It is the case of the petitioner that as much as the petitioner has already deposited deficit stamp duty pursuant to notice dated 2.1.2004 on the documents bearing Nos. 1489 and 1490 of 2003, the question of compounding again will not arise.

Counter affidavit has been filed on behalf of respondents 2 and 3 by the Assistant District Registrar stating that as per the provisions of the Indian Stamp Act, the defaulting party is not only liable to pay the deficit stamp but also three times penalty apart from facing the prosecution and if the petitioner is willing to compound the offence, prosecution will not be launched for the offence

committed.

As per Section 70(2) of the Indian Stamp Act, the Chief Controlling Revenue Authority, or any officer generally or specifically authorized by it in this behalf, may stay any such prosecution or compound any such offence by levying a compounding fee which shall include the deficit stamp duty, if any and a penalty of three times of the deficit stamp duty.

It is to be seen that the petitioner, pursuant to notice dated 2.1.2004 had already deposited the stamp duty and the same was accepted. In that view of the matter, neither the question of compounding nor prosecution will arise. The compounding as contemplated under Section 70(2) of the Act includes the power to collect the deficit stamp duty while passing an order for compounding. But, however, after collecting the deficit stamp duty by issuing notice, it is not open for the respondents to issue notice for compounding to give consent for compounding.

In that view of the matter, the impugned notices dated 15.5.2004 in respect of the documents bearing Nos. 1489 and 1490 of 2003 are illegal and are accordingly quashed.

The writ petition is allowed. No costs.

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21-9-2007 **R.SUBHASH REDDY, J.**

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